

ORIGINAL

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
 Replacement of Part 90 by Part 88 to ) PR Docket No. 92-235  
 Revise the Private Land Mobile )  
 Radio Services and Modify the )  
 Policies Governing Them )  
 )  
 and )  
 )  
 Examination of Exclusivity and )  
 Frequency Assignment Policies of the )  
 Private Land Mobile Radio Service )

To: The Commission

**PETITION FOR CLARIFICATION  
 OF THE  
AMERICAN PETROLEUM INSTITUTE**

The American Petroleum Institute ("API"), by its attorneys and pursuant to Section 1.429(d) of the Rules and Regulations of the Federal Communications Commission ("Commission" or "FCC"), hereby respectfully submits this Petition for Clarification of certain aspects of the *Second Memorandum Opinion and Order* ("Second MO&O") adopted by the Commission in the above-captioned proceeding on April 6, 1999.<sup>1/</sup> Specifically, API asks the Commission to clarify and confirm that the new

<sup>1/</sup> *Second Memorandum Opinion and Order*, 64 Fed. Reg. 36258 (July 6, 1999).

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coordination/concurrence procedures adopted in the *Second MO&O* with respect to channels previously assigned on either a shared or exclusive basis to the former Petroleum Radio Service may be implemented through the use of contour analysis and/or other measures deemed necessary by the responsible frequency coordinator to protect incumbent petroleum industry systems operating on these channels.

## **I. PRELIMINARY STATEMENT**

1. API is a national trade association representing approximately 350 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. One of the Telecommunications Committee's primary functions is to evaluate and develop responses to state and federal proposals affecting telecommunications services and facilities used in the oil and gas industries.

2. In the *Second MO&O*, the Commission concluded that frequencies previously assigned to the former Petroleum, Power and Railroad Radio Services on either a shared or exclusive basis should be coordinated by or subject to the concurrence

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of the frequency coordinators responsible for these services prior to the implementation of service pool consolidation in the Private Land Mobile Radio ("PLMR") bands below 800 MHz. API applauds the Commission for recognizing in this manner the importance of providing adequate protection for the PLMR systems relied upon by these "critical infrastructure industries." API also is appreciative of the Commission's efforts to address in its *Third Memorandum Opinion & Order* ("*Third MO&O*")<sup>2/</sup> in this proceeding the several petitions and related pleadings concerning rules to govern trunked operations in the "refarmed" spectrum bands. However, unlike the clarity provided in the *Third MO&O* for coordinating trunked systems, no specific coordination guidelines were provided in the *Second MO&O* to ensure that incumbent Petroleum, Power and Railroad systems are protected from encroachment by new conventional systems.

3. API does not intend this Petition for Clarification ("Petition") to signal any general displeasure on the part of the petroleum and natural gas industries with the new coordination/concurrence requirement adopted in the *Second MO&O*. Instead, API submits this Petition to address only a limited issue. In particular, API simply requests the Commission to clarify its intent in the *Second MO&O* with respect to the coordination procedures that may be used to protect systems authorized to operate on frequencies previously assigned to the former Petroleum Radio Service.

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<sup>2/</sup> *Third Memorandum Opinion & Order*, PR Docket No. 92-235 (adopted June 10, 1999) (not yet published in Federal Register).

## II. DISCUSSION

### A. The Commission Has Recognized the Vital Nature of PLMR Systems Used by the Petroleum Industry

4. In the oil and gas, electric utility and railroad industries, mobile radio communications are critical for responding to emergencies that could impact hundreds or even thousands of people. Moreover, numerous Federal, state and local regulatory requirements dictate the use of reliable communication facilities in these industries to ensure the safety of their operations. It is for these reasons that API has consistently sought in this proceeding a level of protection for these systems that will ensure their continued reliability.

5. The Commission, in its *Second Report and Order* ("*Second R&O*") in this proceeding, specifically recognized the special communications requirements of users in the former Petroleum, Power and Railroad Radio Services when it determined that "the nature of their day-to-day operations provides little or no margin for error and in emergencies they can take on an almost quasi-public safety function."<sup>3/</sup> The FCC further noted that "[a]ny failure in their ability to communicate by radio could have severe consequences on the public welfare."<sup>4/</sup> In light of these considerations, the Commission adopted rules which provide that channels formerly allocated on an exclusive basis to the

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<sup>3/</sup> *Second Report and Order*, PR Docket No. 92-235, 12 FCC Rcd 14307, 14329 (1997).

<sup>4/</sup> *Id.*

Petroleum, Power and Railroad Radio Services shall continue to be coordinated by the designated coordinators responsible for those Services prior to service pool consolidation.<sup>5/</sup>

6. In its *Second MO&O*, the Commission extended this basic coordination protection to channels formerly assigned on a shared basis to the Petroleum, Power and/or Railroad Radio Services.<sup>6/</sup> There, the Commission acknowledged that API (in a Petition for Reconsideration) had raised "a legitimate safety issue" concerning incumbent operations on such formerly shared frequencies.<sup>7/</sup> API believes that the Commission meant to protect, through this broader-reaching coordination requirement, the security of incumbent Petroleum Radio Service systems used throughout the industry in exploration, production, pipeline and other transportation operations, and refining activities. However, no criteria were provided for the coordination of applications for new systems on channels previously assigned to the Petroleum Radio Service.

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<sup>5/</sup> See 47 C.F.R. § 90.35(b).

<sup>6/</sup> *Second MO&O* at ¶ 9. In particular, the Commission's new rules require that frequencies that were assigned either exclusively or on a shared, primary basis to the Petroleum, Power or Railroad Radio Services prior to service pool consolidation must be coordinated by the coordinator for that service unless the coordinator consents to their coordination by another certified frequency coordinator for the Industrial/Business Pool. Id.

<sup>7/</sup> Id.

7. Finally, in its *Third MO&O*, the Commission: (1) adopted the use of contour analysis for determining whether concurrence is required from existing co-channel and adjacent channel licensees for VHF and UHF applications that propose trunked systems;<sup>8/</sup> (2) clarified that concurrence is required from adjacent, as well as co-channel licensees;<sup>9/</sup> and (3) confirmed that the Commission's rules imply that a licensee authorized to employ trunking is afforded a "protected service area" with regard to new applicants specifying the same channel or channels as those used by the trunking licensee.<sup>10/</sup> As further discussed below, API believes that basic procedures of this nature should be available with respect to the coordination of conventional systems as well so as to preserve the integrity of existing operations on the former Petroleum Radio Service channels.

**B. The FCC Should Clarify That Incumbent "Petroleum Radio Service" Systems May Be Protected Through Certain Coordination Procedures**

8. By extending the "API frequency coordinator" requirement to those frequencies previously shared by the former Petroleum Radio Service, the Commission's *Second MO&O* appropriately recognized the legitimate safety issue associated with communications supporting the oil and gas industries. API is uncertain, however, that the

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<sup>8/</sup> *Third MO&O* at ¶ 7.

<sup>9/</sup> *Id.* at ¶ 17.

<sup>10/</sup> *Id.* at ¶ 20.

ruling provides the proper tools to protect existing "wideband" systems from interference from new "narrowband" systems in a manner, for example, similar to that specified for trunked systems.

9. In particular, while concurrence is required for narrowband (12.5 kHz and 6.25 kHz) channels to be used in trunked systems that fall within the bandpass of wide band (25 kHz) channels, neither coordination protection nor concurrence appears to be explicitly required for these types of narrowband channels to be used in conventional systems. Failure to coordinate conventional applications on the same basis as trunked applications increases the likelihood of destructive interference into "protected" incumbent systems.

10. In order to adequately protect incumbent Petroleum industry systems, appropriate technical criteria for coordination should be clarified. In its Petition for Reconsideration of the *Second R&O*, API suggested that the Commission adopt "protected contour" interference protection for stations on former Petroleum Radio Service frequencies that were assigned on a shared basis.<sup>11/</sup> The Commission rejected the suggestion, *inter alia*, because the issue of whether to provide protected contours to

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<sup>11/</sup> API Petition for Reconsideration at ¶¶ 7-8.

Part 90 licensees generally was then the subject of another aspect of this proceeding.<sup>12/</sup>

In the *Third MO&O*, however, the Commission adopted contour analysis as a basis for protecting trunked operations in the VHF and UHF bands.<sup>13/</sup>

11. While not seeking a Commission mandate for protected service contours, API does request that the Commission confirm that it is appropriate for API's coordinator to use contour analysis as a measure for protecting incumbent systems authorized on former Petroleum Radio Service frequencies. Specifically, and similar to the rules confirmed in the *Third MO&O*, API seeks clarification that its designated coordinator may decline to approve for grant any application that seeks authority to share any frequency (*i.e.*, any channel, wide or narrowband, that overlaps the bandpass of the incumbent 25 kHz channel) assigned to the former Petroleum Radio Service in circumstances where the applicant's predicted interference contour would overlap the incumbent's service contour according to the following:

For UHF systems operating in the band 450-470 MHz, an applicant's 19 dBu contour may not overlap the 39 dBu contour of the existing system; for VHF systems employing channels from the 150-174 MHz band, an applicant's 22 dBu contour may not overlap the 37 dBu contour of the existing system; and for systems operated on channels below 50 MHz, an applicant's 12 dBu contour may not overlap the 30 dBu contour of an existing system.

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<sup>12/</sup> *Second MO&O* at ¶ 8.

<sup>13/</sup> *Third MO&O* at ¶ 7.



In circumstances where coordination approval is initially denied pursuant to this standard, the applicant would, however, be provided the opportunity to demonstrate through technical studies or other appropriate means that its proposed operations would not cause harmful interference to any incumbent petroleum systems.

12. Clarification that the foregoing criteria are appropriate for coordination of channels impinging on frequencies previously assigned to the former Petroleum Radio Service will facilitate greater sharing of frequency assignments in areas where they are not employed for critical functions while, at the same time, protecting existing systems. Accordingly, API urges the Commission to clarify its rules in the manner requested herein.

### **III. CONCLUSION**

13. In order to promote public safety goals, API strongly urges the Commission to confirm that the same coordination and concurrence criteria that were adopted for trunked systems may be applied to requests for coordination of conventional systems that may impact incumbent Petroleum Radio Service stations. The Commission is also asked to confirm that the following contour analysis may be used for incumbent systems on former Petroleum Radio Service channels: (1) 19/39 dBu interference/service contours for existing UHF systems; (2) 22/37 dBu interference/service contours for existing VHF systems; and (3) 12/30 dBu interference/service contours for existing low

band systems. Only by establishing protection criteria for these vital communications systems will the Commission attain its twin goals of ensuring public safety and promoting efficient frequency assignments in the PLMR bands.

**WHEREFORE, THE PREMISES CONSIDERED,** the American Petroleum Institute respectfully requests the Commission to clarify its *Second MO&O* in this proceeding in the manner discussed herein.

Respectfully submitted,

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